



**STATE OF HAWAII**  
**CAMPAIGN SPENDING COMMISSION**  
235 SOUTH BERETANIA STREET, SUITE 300  
HONOLULU, HAWAII 96813

May 11, 2011

Steven Gold, Esq.  
General Counsel  
ActBlue  
14 Arrow Street  
Cambridge, MA 02138

Re: Advisory Opinion 11-01

Dear Mr. Gold,

This is in response to ActBlue's request for an advisory opinion dated March 8, 2011. You informed the Hawaii Campaign Spending Commission ("Commission") that ActBlue is a political organization registered as a political committee with the Federal Election Commission, as well as a number of states around the country. ActBlue accepts contributions from individuals only that are earmarked for candidate committees and noncandidate committees, via ActBlue's website. ActBlue lists all Democratic committees with or without those committees' involvement on its website. Contributors make contributions on the ActBlue website using a credit or debit card. ActBlue's software processes the earmarked contributions and the funds are deposited into ActBlue's bank account. The cost of processing the contributions is deducted from the total amount of contributions to a candidate and the remainder is forwarded to the candidate on a check drawn on ActBlue's bank account. Contributions are forwarded on a regular basis, at least weekly. Information about the individual contributors and the amount of the processing fee is provided to the candidates.

ActBlue intends on registering as a noncandidate committee in Hawaii. As an entity that accepts earmarked contributions, ActBlue seeks an advisory opinion on three questions related to earmarked contributions. The Commission's responses are noted below.

1. Once ActBlue has registered as a political committee with the Campaign Spending Commission, may ActBlue accept and disburse contributions made by individuals which are earmarked by the contributor for candidate committees and other noncandidate committees?

ActBlue may accept and disburse earmarked contributions. As you are probably aware, under HRS §11-358, contributions to noncandidate committees are limited to an aggregate amount of \$1,000 per person per election.

2. If ActBlue may receive earmarked contributions, do such contributions received and forwarded count against ActBlue's contribution limits to other committees or only against the contribution limits of the original contributors?

The earmarked contributions count only against the individual contributors' contribution limits and not ActBlue's contribution limits. Currently, under HRS §§11-360(c) and 11-361(d), only earmarked contributions made to political parties are counted against both the party's and the contributor's contribution limits to candidates.

3. If ActBlue may receive earmarked contributions, how should those earmarked contributions received and disbursed by ActBlue be reported to the Commission?

As a registered noncandidate committee, ActBlue would report the earmarked contributions received via the ActBlue website on Schedule A (Contributions Received) and the disbursement to the candidates on Schedule B1 (Contributions to Candidates).

Under HRS §11-351(c), ActBlue must disclose the original source of the earmarked contribution, the ultimate recipient of the contribution, and the fact that the contribution was earmarked. Currently, the Noncandidate Committee Filing System ("NCFS") provides no method for ActBlue to mark a contribution received as an earmarked contribution and no method to link the earmarked contribution to the candidate committee as the ultimate recipient of the earmarked funds. Until the NCFS can be modified, ActBlue can mark an earmarked contribution on the "Schedule A (Contributions Received)" - "Add/Edit Name" screen, by adding the words "(Earmark - [Candidate's Name])" after entering the contributor's first name in the "First Name" field. Adding these words will also create the link to the disbursement to the candidate entered on Schedule B1 (Contributions to Candidates).

The candidate committee that receives the earmarked contribution from ActBlue would report the entire contribution on Schedule A (Contributions Received) identifying the original contributor as the contributor, not ActBlue. The candidate committee would report the transaction fee on Schedule B (Expenditures Made) as an expenditure.

The Commission provides this Advisory Opinion as a means of stating its current interpretation of the Hawaii Campaign Finance law in HRS §11-301, *et seq.*, and the Commission's rules in chapter 3-160, Hawaii Administrative Rules. The Commission

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may adopt, revise, or revoke this Advisory Opinion if provisions of the Campaign Finance Law or the Commission's administrative rules are amended or repealed.

CAMPAIGN SPENDING COMMISSION

A handwritten signature in black ink, appearing to read "Paul Kuramoto", written over a horizontal line.

By: PAUL KURAMOTO  
Its Chairperson